

SPECIAL PROVISIONS

to the BASE CONTRACT FOR SHORT TERM

SALE AND PURCHASE OF NATURAL GAS

(GISB Standard 6.3.1, version 1.4, Dated January 7, 2000)

between

CALIFORNIA DEPARTMENT OF WATER RESOURCES

P. O. Box 219001

3310 El Camino Avenue

Sacramento, CA 95821

("Buyer")

and

BP ENERGY COMPANY

18101 Von Karmen Ave. ("Seller")

Suite 1940, Irvine, CA 92612

Dated: July 18, 2001

("Seller")

Contract # 601132

The parties agree to amend the General Terms and Conditions of the Base Contract as follows:

1. The following shall be added immediately following Section 1.1:

1.1.1 The parties agree that this Base Contract shall only be used for transactions having a Delivery Period of one year or less and may not be used for transactions having a delivery period in excess of one year.

2. Section 2.9 and Section 3.2 shall be amended as follows:

The phrase "or alternate fuels" shall be deleted.

3. Section 2.14 shall be deleted.

4. The following shall be added immediately following Section 2.26:

2.27. "Fund" shall mean Department of Water Resources Electric Power Fund established by Section 80200 of the Water Code of the State of California (the "Water Code").

"Transaction" shall mean a purchase and sale transaction formed pursuant to Section 1. for a particular delivery period.

5. Section 7.1, first sentence, shall be revised to read as follows:

7.1 Seller shall invoice Buyer for Gas delivered and received in the preceding **one-month period** and for any other applicable charges, providing supporting documentation acceptable in industry practice to support the amount charged.

6. Section 7.2, first sentence, shall be revised to read as follows:

7.2 Buyer shall remit the amount due in the manner specified in the Base Contract, in immediately available funds, on or before **ten (10)** days after receipt of the invoice by Buyer; provided that if the Payment Date is not a Business Day, payment is due on the next Business Day following that date.

7. The second sentence of Section 8.3 shall be amended to read as follows:

To the extent expressly permitted by law, Buyer agrees to indemnify Seller and save it harmless from all Claims, from any and all other persons, arising from or out of claims regarding payment, personal injury or property damage from said Gas or other charges thereon which attach after title passes to Buyer.

8. Section 10 should be deleted in its entirety and replaced with the following text:

10.1 Conditions Precedent. Seller's sale and delivery of Gas to Buyer hereunder is contingent upon and subject to the following:

10.1.1 Payment to Seller in accordance with the terms of Section 7 hereof;

~~10.1.3~~ 10.1.2 Buyer shall maintain a rating of BBB- or better by Standard & Poor's Rating Group ~~or~~ and a Baa3 or better by Moody's Investor Services, Inc. on bonds, notes or other indebtedness of Buyer secured by a pledge or assignment of all revenues under any obligation entered into by Buyer with respect to the Fund, and rights to receive the same, and moneys on deposit in the Fund and income or revenue derived from the investment thereof (such bonds, notes or other indebtedness being referred to as "Bonds").

10.1.3 Buyer's agreement to provide Seller with a monthly report summarizing all funds expended and funds available versus all power and natural gas expenditures.

10.2 Financial Responsibility. When reasonable grounds for insecurity of payment or title to the Gas arise, either party may demand adequate assurance of performance. Adequate assurance shall mean sufficient security in the form and for the term reasonably specified by the party demanding assurance. Buyer's obligation to make payment of amounts due under this Base Contract from the Fund in accordance with the provisions of Sections 10.4 and 10.5 shall be deemed sufficient security in form and term acceptable to Seller for the purposes of Section 10.1. In no event shall Buyer be required to provide a standby irrevocable letter of credit, a prepayment, a security interest in any asset, a performance bond or a guarantee hereunder. For the purpose of this Base Contract "adequate assurance of performance" with respect to Buyer shall mean (1) evidence reasonably satisfactory to Seller that Buyer either has, or reasonably expects to have, sufficient funds on hand to meet its obligations, including its obligations under this Base Contract, based on, among other things, current fund balances, outstanding bills to or expected collections from retail customers, revenue expected from the sale of surplus power or other expected revenues, or rate increases implemented or to be implemented to meet Buyer's revenue requirements, and (2) Buyer having, and retaining, with regard to Buyer's bonds, notes, or other indebtedness a rating of BBB- or better by ; provided, however, that Seller shall have no reasonable grounds for insecurity of payment and shall not demand such adequate assurance of performance so long as Buyer's bonds, notes or other indebtedness are rated BBB- or better by Standard & Poor's Rating Group, or its successor, or and Baa3 or better by Moody's Investor Services, Inc., or its successor. Buyer shall not be in default under Section 10.3(vi) if, upon a request for adequate assurance, Buyer (a) has paid all amounts due and payable hereunder in accordance with the terms hereof, and (b)(i) demonstrates to the reasonable satisfaction of Seller expected revenues sufficient to provide for timely payment of all its obligations, and/or (ii) immediately undertakes to establish and revise, if it has not previously established and revised, its revenue requirements pursuant to Section 10.5 so as to provide for timely payment of all its obligations, including payments under this Base Contract.

10.3 Events of Default. In the event either party shall (i) make an assignment or any general arrangement for the benefit of creditors; (ii) default in the payment obligation to the other party; (iii) file a petition or otherwise commence, authorize, or acquiesce in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors or have such petition filed or proceeding commenced against it; (iv) otherwise become bankrupt or insolvent (however evidenced); or (v) be unable to pay its debts as they fall due; (vi) fail to provide the requesting party with adequate assurance in accordance with this Section 10 in form acceptable to the requesting party within seventy-two (72) hours of a demand therefor; then the other party shall have the right to either

withhold and/or suspend deliveries or payment upon no less than two (2) Day's written notice, or establish a date on which this Contract will terminate if the default is not cured ("Early Termination Date") upon giving five (5) business days written notice to the defaulting party; provided that upon the occurrence of a default listed in items (iii) and (iv) of this Section hereof, as it may apply to any party, this Contract shall automatically terminate, without notice, as if an Early Termination Date has been immediately declared. Seller may immediately suspend deliveries to Buyer hereunder in the event Buyer has not paid any amount due Seller hereunder on or before the second Day following the date such payment is due. The non-defaulting party's rights under this Section are in addition to any and all other remedies available hereunder. Each party reserves to itself all rights, set-offs, counterclaims, and other defenses which it is or may be entitled to arising from the Contract.

10.3.1 Notwithstanding anything herein or in a Transaction Confirmation to the contrary, Buyer's obligation to make payments hereunder shall be limited solely to the Fund. Any liability of Buyer arising in connection with this Base Contract or any claim based thereon or with respect thereto, including, but not limited to, any payment pursuant Section 3.2 hereof arising as the result of any breach or event of default under this Base Contract, and any other payment obligation or liability of or judgment against Buyer hereunder, shall be satisfied solely from the Fund. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF CALIFORNIA ARE OR MAY BE PLEDGED FOR ANY PAYMENT UNDER THIS BASE CONTRACT. Revenues and assets of the State Water Resources Development System shall not be liable for or available to make any payments or satisfy any obligation arising under this Base Contract.

10.4. Payments under this Base Contract shall constitute an operating expense of the Fund payable prior to all (a) bonds, notes or other indebtedness secured by a pledge or assignment of all revenues under any obligation entered into, and rights to receive the same, and moneys on deposit in the Fund and income or revenue derived from the investment thereof or (b) payments to the general fund. The foregoing shall be reflected in any bond resolution or indenture providing for issuance by Buyer of Bonds.

10.5. In accordance with Section 80134 of the Water Code, Buyer covenants that it will, at least annually, and more frequently as required, establish and revise revenue requirements sufficient, together with any moneys on deposit in the Fund, to provide for the timely payment of all obligations which it has incurred, including any payments required to be made by Buyer pursuant to this Base Contract. As provided in Section 80200 of the Water Code, while any obligations of Buyer pursuant to this Base Contract remain outstanding and not fully performed or discharged, the rights, powers, duties and existence of Buyer and the

Public Utilities Commission shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the Seller under this Base Contract.

10.6 Early Termination. If an Early Termination Date has been declared, the non-defaulting party shall have the right to liquidate all Transactions (including any portion of a Transaction not yet fully delivered) then outstanding by:

(a) closing out each Transaction being liquidated at its Market Value so that each such Transaction is canceled and a settlement payment in an amount equal to the positive difference between such Market Value and the Contract Value, as defined below, of such Transaction shall be due to the Buyer under the Transaction if such Market Value exceeds the Contract Value and to the Seller if the opposite is the case; and

(b) discounting each amount then due under clause (a) above to present value in a commercially reasonable manner as at the time of liquidation (to take account of the period between the date of liquidation and the date on which such amount would have otherwise been due pursuant to the relevant Transaction); and

(c) setting off or aggregating, as appropriate, all such settlement payments (discounted as appropriate) and (at the election of the non-defaulting party) any or all other amounts owing between the Parties under this Contract so that all such amounts are aggregated and/or netted to a single liquidated amount payable by one Party to the other. Such net amount due shall be paid by the close of business on the Business Day following the Early Termination Date.

For purposes of this Section, "Contract Value" means the quantity of Gas or other product remaining to be delivered under a Transaction multiplied by the Contract Price per MMBtu. "Market Value" means the quantity of Gas or other product remaining to be delivered under a Transaction multiplied by the market price per MMBtu determined by the non-defaulting party in a commercially reasonable manner considering, among other valuations, quotations from leading dealers in gas contracts, any or all of the settlement prices of the NYMEX gas futures contracts, any or all of the settlement prices on other established gas exchanges and other bona fide third party offers. The rate of interest used in calculating net present value shall be determined by the non-defaulting party's cost of funds at the time of default.

10. The following shall be added immediately following Section 13.8:

13.9. Seller has stated that, because of the administrative burden and delays associated with such requirements, it would not enter into this Base Contract if the

provisions of the Government Code of California and the Public Contracts Code of California applicable to state contracts, including, but not limited to, advertising and competitive bidding requirements and prompt payment requirements would apply to or be required to be incorporated in this Base Contract. Accordingly, pursuant to Section 80014(b) of the Water Code, Buyer has determined that it would be detrimental to accomplishing the purposes of Division 27 (commencing with Section 80000) of the Water Code to make such provisions applicable to this Base Contract and that such provisions and requirements are therefore not applicable to or incorporated in this Base Contract.

11. The following shall be added immediately following Section 13.9:

13.10. It is understood by the parties that, with respect to the Buyer, only the following persons or such other persons as designated in writing by Buyer shall be authorized to enter into any transaction contemplated hereunder on behalf of Buyer: (1) Mark Baldwin; (2) Chuck Toney.

12. The following shall be added immediately following Section 13.10:

13.11. It is understood by the parties that the California Department of Water Resources means the California Department of Water Resources, acting solely under the authority and powers created by AB1-X, codified as Sections 80000 through 80270 of the Water Code of California, **as amended**, and not under its powers and responsibilities with respect to the State Water Resources Development System.